

# PLANNING DIVISION STAFF REPORT

November 22, 2021



PREPARED FOR THE PLAN COMMISSION

**Project Address:** 1109 Fourier Drive (9<sup>th</sup> Aldermanic District, Ald. Conklin)  
**Application Type:** Conditional Use  
**Legistar File ID #:** [67540](#)  
**Prepared By:** Colin Punt, Planning Division  
Report Includes Comments from other City Agencies, as noted  
**Reviewed By:** Kevin Firchow, AICP, Principal Planner

## Summary

**Applicant:** Todd Winkler; Benvenuto's Italian Grill; 7461 Blazing Stars Dr; Middleton, WI 53562

**Contact:** Raul Quintana; Benvenuto's Italian Grill; 1109 Fourier Dr; Madison, WI 53717

**Owner:** William Zanetis; 1155 North Dearborn #1102; Chicago, IL 60610

**Requested Action:** Approval of a Conditional Use to establish an outdoor eating area in a Suburban Employment Center (SEC)-zoned property at 1109 Fourier Drive per M.G.O. §28.086(2).

**Proposal Summary:** The applicant seeks approval an outdoor eating area on the sidewalk adjacent to an existing hotel with restaurant-tavern.

**Applicable Regulations & Standards:** This proposal is subject to the standards for conditional uses, M.G.O. §28.183(6).

**Review Required By:** Plan Commission, Urban Design Commission (Based on the limited scope of review, this request was reviewed administratively by the UDC Secretary that recommended no additional conditions of approval.)

**Summary Recommendation:** The Planning Division recommends that the Plan Commission find that the conditional use standards are met and **approve** the requests to establish an outdoor eating area for a restaurant-tavern in a hotel at 1109 Fourier Drive. This recommendation is subject to input at the public hearing and the conditions recommended by the Planning Division and other reviewing agencies.

## Background Information

**Parcel Location:** The subject site is a 4.8-acre parcel located immediately east of the intersection of Fourier Drive and John Q Hammons Drive, adjacent to the West Beltline Highway. It is within Aldermanic District 9 (Alder Conklin) and the Madison Metropolitan School District.

**Existing Conditions and Land Use:** The site, zoned SEC (Suburban Employment Center), is occupied by a four-story, 157-room hotel, constructed in 2000, and a large surface parking lot.

### Surrounding Land Uses and Zoning:

North: Multi-story office buildings zoned SEC (Suburban Employment Center);

West: Across Fourier Drive and John Q Hammons Drive, multi-story office buildings zoned SEC;

**South:** Stormwater drainage and multi-story office buildings, all zoned SEC; and

**East:** Across the West Beltline Highway, a six-building apartment complex zoned PD (Planned Development Condition).

**Adopted Land Use Plan:** The [Comprehensive Plan](#) (2018) recommends E (Employment) for the site.

**Zoning Summary:** The subject property is zoned SEC (Suburban Employment Center):

Requirements	Required	Proposed
Lot Area (sq. ft.)	43,560 (1 acre)	209,291
Lot Width	100 ft	250 ft
Front Yard Setback	10 ft	existing
Max. Front Yard Setback	10 ft	existing
Side Yard Setback	10 ft	existing
Rear Yard Setback	30 ft	existing
Maximum Lot Coverage	75%	existing
Minimum Building Height	22 ft	existing
Maximum Building Height	None	existing

Site Design	Required	Proposed
Number Parking Stalls	No minimum	250
Accessible Stalls	7	7
Loading	Yes	Yes
Number Bike Parking Stalls	2 additional	8
Landscaping	Yes	Existing, no change
Lighting	Yes	Existing, no change
Building Forms	Yes	Existing, no change
<b>Other Critical Zoning Items:</b>	Urban Design (Planned Commercial Site), Utility Easements	

*Table Prepared by Jacob Moskowitz, Assistant Zoning Administrator*

**Environmental Corridor Status:** The subject site is not located in a mapped environmental corridor.

**Public Utilities and Services:** This property is served by a full range of urban services.

## Project Description, Analysis, and Conclusion

The applicant, representing the Benvenuto's Italian Grill with the Holiday Inn Express at 1109 Fourier Drive, is requesting conditional use approval for an outdoor eating area on the sidewalk in front of the restaurant-tavern attached to the hotel. The applicant is proposing to place 8 tables of 4 chairs each for a total capacity of 32 people on the paved areas in front of and around the restaurant space. No other site plans are proposed at this time. The letter of intent has indicated that no amplified sound will occur and that the hours of operation are proposed to be 11 a.m. to 9 p.m. Sunday through Thursday and 11 a.m. to 10 p.m. Friday and Saturday.

### **Adopted Plan Recommendations**

The [Comprehensive Plan](#) (2018) recommends E (Employment) for the site. Employment areas include predominantly corporate and business offices, research facilities, laboratories, hospitals, medical clinics, and other similar uses, but may also include limited retail and service establishments that primarily serve employees and users of the area. As the general use (hotel and restaurant-tavern) already exist, staff believes the Plan Commission can find the request consistent with adopted plans.

### **Conditional Use Standards**

In regards to the conditional use approval standards, the Plan Commission shall not approve a conditional use without due consideration of the City's adopted plan recommendations, design guidelines, supplemental regulations, and finding that all of the conditional use standards of §28.183(6) M.G.O. are met. Staff advises the Plan Commission that in evaluating the conditional use standards, State law requires that conditional use findings must be based on "substantial evidence" that directly pertains to each standard and not based on personal preference or speculation. In some instances, outdoor eating areas may be accompanied by light and noise, which are sometimes called out in reference to conditional use approval standard 1, related to the detriment or endangerment of public health, safety, and welfare, and standard 3, regarding impairment or diminishment of uses, values, and enjoyment of other property in the neighborhood. In this case, because of the location of the outdoor eating on the sidewalk adjacent to a hotel restaurant in an office park and the predominantly non-residential character of surrounding development, Staff does not anticipate the development will result in negative impacts on surrounding properties and believes that all applicable standards of approval can be found met.

### **Conclusion**

Staff believes that given the surrounding uses, the location of the outdoor eating area away from any residential uses, and the plan recommendations, the Plan Commission can find the applicable conditional use standards of approval to be met and approve the conditional use request. Staff notes that as a conditional use, the Plan Commission retains "continuing jurisdiction" to review and resolve complaints that may arise on the operation of the conditional use.

At time of report writing, staff is unaware of any public comments.

## **Recommendation**

### **Planning Division Recommendation** (Contact Colin Punt, (608) 243-0455)

The Planning Division recommends that the Plan Commission find that the conditional use standards are met and **approve** the request to establish an outdoor eating area for restaurant-tavern in a hotel at 1109 Fourier Drive. This recommendation is subject to input at the public hearing and the conditions recommended by the Planning Division and other reviewing agencies.

### **Recommended Conditions of Approval**

Major/Non-Standard Conditions are Shaded

#### **Zoning** (Contact Jacob Moskowitz, (608) 266-4560)

1. Meet applicable building/fire codes. The capacity shall be established for the outdoor eating area. Occupancy is established by the Building Inspection Unit. Contact Mike VanErem at 266-4559 to help facilitate this process.
2. If you have a license to sell alcohol in an outdoor eating area, the Alcohol License Review Committee will establish conditions for operation, which involve fencing, security guards, toilet facilities, litter, etc. All businesses that sell alcohol must comply with the requirements imposed by the Alcohol License Review Committee at the time of issuance of your original application to expand or change your licensed premises to include the outdoor eating area. It is your responsibility to have the outdoor service area added to your licensed premise. Please contact the City Clerk's office for assistance ALRC issues.

#### **Traffic Engineering Division** (Contact Sean Malloy, (608) 266-5987)

3. The applicant shall submit one contiguous plan showing proposed conditions and one contiguous plan showing existing conditions for approval. The plan drawings shall be to engineering scale and include the following, when applicable: existing and proposed property lines; parcel addresses; all easements; vision triangles; pavement markings; signing; building placement; items in the terrace such as signs, street light poles, hydrants; surface types such as asphalt, concrete, grass, sidewalk; driveway approaches, including those adjacent to and across street from the project lot location; parking stall dimensions, including two (2) feet of vehicle overhang; drive aisle dimensions; semitrailer movement and vehicle routes; dimensions of radii; and percent of slope.
4. Meet applicable building/fire codes. The capacity shall be established for the outdoor eating area. Occupancy is established by the Building Inspection Unit. Contact Mike VanErem at 266-4559 to help facilitate this process.
5. If you have a license to sell alcohol in an outdoor eating area, the Alcohol License Review Committee will establish conditions for operation, which involve fencing, security guards, toilet facilities, litter, etc. All businesses that sell alcohol must comply with the requirements imposed by the Alcohol License Review Committee at the time of issuance of your original application to expand or change your licensed premises to include the outdoor eating area. It is your responsibility to have the outdoor service area added to your licensed premise. Please contact the City Clerk's office for assistance ALRC issues.

*The Planning Division City Engineer Division, Fire Department, Parks Division, Forestry Section, Water Utility, and Metro Transit have reviewed this request and have recommended no conditions of approval*